

**IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.**

ORDER

Smt. Raj Bala **vs.** The Registrar,
Bikaner University,
Bikaner & ors.

S.B. Civil Writ Petition No. 1509/07 under Article 226 of the Constitution of India.

Date of Order: October 11, 2007.

PRESENT

HON'BLE MR. PRAKASH TATIA,J.

Mr. Dron Kaushik for the petitioner.
Mr. D.D. Chitlangi for the respondents.

BY THE COURT:

The petitioner, the student of M.A. Final year in Political Science, appeared in the final examination held in the year 2005. She secured 52.30% marks in the result declared on 13.8.2005. The petitioner being not satisfied by the marks given to her in few subjects, she applied for re-evaluation. The result of re-evaluation was declared on 3.1.2006. In re-evaluation, the petitioner's marks were reduced resulting into lowering down her aggregate percentage of marks from

52.30% to 49.3%. According to the petitioner, for further admission in B.Ed. Entrance test, minimum qualifying marks are 50% in B.A. or M.A. Course. For appointment on the post of Lecturer in Political Science in the State of Haryana also, minimum qualifying marks were 50% in the aggregate. Because of lowering down of percentage of marks of the petitioner, from 52.3% to 49.3%, the petitioner cannot take examination of B.Ed. Entrance test nor get the appointment of Lecturer in Political Science in the State of Haryana. The petitioner, finding this situation, decided to re-appear in certain subjects of the M.A. Final Examination. The petitioner submitted her examination form to the College. The College submitted the form to the University. The University rejected the petitioner's form vide communication dated 20/21 February, 2007. The petitioner's examination form for improvement of marks in two subjects was rejected on the ground that the candidate can be eligible to re-appear in the examination in the subjects in the immediately following year. The petitioner since appeared in the examination in the year 2005 and,

therefore, could have appeared in the examination of 2006, therefore, the petitioner was not eligible to appear in the examination in the years 2007 or 2008. In view of the above, the petitioner has challenged the action of the respondents and particularly the communication dated 20/21 February, 2007. The petitioners' prayers in the writ petition are as under:-

“(a) It is, therefore, most humbly and respectfully prayed that by an appropriate writ, order or direction the impugned orders Annexure 4 dated 20/21.2.2007 received on 28.2.2007 issued by the Bikaner University be quashed and set aside.

(b) By an appropriate writ, order or direction the order after examination her result be declared along with other candidates.

(c) Any other order which this Hon'ble Court considers just and proper may kindly be passed in favour of the petitioner.

(d) Writ petition may kindly be allowed with costs.”

The respondents submitted reply to the writ petition and

justified the action in view of the Ordinance 169-E of the respondent-University.

The learned counsel for the petitioner, in addition to above contentions, submitted that the petitioner's marks could not have been reduced in view of the fact that in case the marks are increased or decreased upto 20% consequent upon re-evaluation, then full marks secured shall be counted for working out the result and as per the rules for re-evaluation, copy of which has been placed as Annex.6 and as mentioned in rule 6B(1), the marks can be decreased to the extent that the result of the candidate will not be effected adversely nor the division can be changed adversely. It is also submitted that if the difference of awards of re-evaluation and the original examiner is more than 20% of maximum marks, the answer books shall be referred to the third examiner and average of the two nearest awards shall be taken into account and the result can be worked out and declared accordingly. In this case, the petitioner's marks have been reduced from 42% to 27% in the subject Indian

Government and Politics. Therefore, the result of re-evaluation may be declared illegal.

I considered the submissions of the learned counsel for the parties.

It is clear from the facts mentioned above itself that the petitioner appeared in the M.A. Final Examination in Political Science subject in the year 2005. Her result was declared on 13.8.2005. She had both options, one for re-evaluation of her marks and another for taking the examination for improvement of her marks. As per Ordinance 169-E, the candidate could have appeared in the examination immediately following year in which she appeared in the examination and of which she wants improvement in marks. The petitioner submitted her form in the month of December, 2006, whereas she could have appeared in the examination of 2006 only and not in the examination of 2007. Therefore, there is no illegality in the rejection of the petitioner's examination form by the respondent-University. The petitioner's contention that her re-evaluation result was

declared on 31.1.2006, is of no consequence because even if the petitioner had two choices, one for re-evaluation of her marks and another for taking re-examination in certain subjects then she should have applied for both in time. The contention raised by the petitioner that reduction of her marks in re-evaluation is illegal, appears to be an afterthought. The petitioner's own contention is that after her percentage of marks was reduced in re-evaluation then she decided to re-appear in the certain subjects of final year and she submitted her examination form to appear in two subjects of final year. By that the petitioner already accepted the result of the re-evaluation dated 31.1.2006. Otherwise, the petitioner failed to show any provision which provides that the marks cannot be reduced below 20%. As per the rules of re-evaluation and its Condition No. 6B(4) and 6C, when there is a difference in marks obtained exceed 20%, the answer books is required to be referred to the third examiner and if it exceeds to 30% then the matter is required to be referred to a Committee constituted by the Vice-Chancellor for taking

action against the concerned examiner and to suggest measure to improve the process of re-evaluation.

In view of the above reasons and looking to the prayers of the petitioner seeking quashing of the communication dated 20/21.02.2007(Annex.7) and seeking direction against the University for declaring her result, cannot be granted because the order dated 20/21.2.2007 is not illegal in any manner and no direction can be issue to the respondents to declare the result of the petitioner when the petitioner did not appear in the examination.

In the result, the writ petition of the petitioner is dismissed.

(PRAKASH TATIA),J.

mlt.